

March. However, undersigned counsel has spoken Attorney Steven E. Hengen, Esquire, of Attorney Richard B. Couser's office, who has consented on behalf of Attorney Couser to the relief requested.

ARGUMENT

Lakeview respectfully urges this honorable Court to apply the provisions of recently enacted New Hampshire law which mandate referral of any action for medical negligence to a pre-trial screening panel pursuant to NH RSA § 519-B:1 *et seq.* Lakeview acknowledges that in diversity cases such as this, a federal court will "... apply state substantive law and federal procedural rules." Correia v. Fitzgerald, 354 F.3d 47, 53 (1st Cir.2003); Hanna v. Plumer, 380 U.S. 460, 465, 85 S.Ct. 1136, 14 L.Ed.2d 8 (1965). Adamson v. Wyeth Pharmaceuticals 2005 WL 2323188, *1 (D.Mass.) (D.Mass., 2005).

The statute was passed by the New Hampshire General Court to "... affirm the intent of the general court to contain the costs of the medical injury reparations system and to promote availability and affordability of insurance against liability for medical injury. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims." As such Lakeview argues the statute establishes substantive law of the State and should be followed by this court as well.

WHEREFORE, Defendant Lakeview Neurorehabilitation Center, Inc. respectfully moves and prays that this Honorable Court issue an order allowing this Motion to Remand for Medical Injury Screening Panel and for such other and further relief as may be just.

Respectfully submitted,

LAKEVIEW NEUROREHABILITATION
CENTER, INC.

By Its Attorneys,

GETMAN, STACEY,
SCHULTHESS & STEERE, P.A.

By: */s/ Dona Feeney*

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Dated: February 9, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendant Lakeview Neurorehabilitation Center, Inc.'s Consented to Motion to Remand for Medical Injury Screening Panel with Memorandum of Law has been forwarded to opposing counsel, Richard B. Couser, Esquire.

By: */s/ Dona Feeney*

Dona Feeney, Esquire